IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.549 OF 2022

Pranav Milind Marathe ...Applicant
Vs.
The State of Maharashtra ... Respondent

Mr.Rizwan Merchant a/w Mr.Sultan Khan and Mr.sagar Shete for the Applicant.
Mr.R.M. Pethe, APP for the Respondent-State.

CORAM : C.V. BHADANG, J.

DATE : 15 MARCH 2022

P.C.

. This is an application for bail, the Applicant along with the co-accused has been charge-sheeted for the offence punishable under Section 406, 420 read with Section 34 of the Indian Penal Code and Section 3 of the Maharashtra Protection of Interest of Depositors Act 1999 (MPID Act, for short) in Special Case No.851 of 2021 arising out of Crime No.64 of 2021 of Kothrud Police Station, District-Pune.

2. The aforesaid crime is registered on the basis of the complaint lodged by Subhangi Vishnu Kunthe on 11 March 2021.

3. I have heard the learned counsel for the parties. Perused record.

4. According to the prosecution during the period from 14 January 2017 to January 2021 the Applicant as the Director of M/s.Marathe Jewellers, Kothrud, Pune along with co-accused had accepted an amount of Rs.37,80,000/- from the informant on promise of a sizable return. However, the Applicant and the co-accused failed to return the amount of Rs.43,47,000/- as promised, (including the returns of on amount of Rs.37,80,000/-) and has cheated the Complainant.

5. During the course of the investigation of the said offence it was revealed that there were other persons/investors, from whom also such deposits/amounts were accepted and total amount according to the prosecution involved in the offence is Rs.5,84,22,970/-.

6. In this case after investigation a charge-sheet is filed. The Applicant was arrested on 11 August 2021 and he is in custody since then.

7. The learned counsel for the Applicant submitted that there are three establishments namely Pranav Marathe Jewellers Pvt. Ltd, in which according to the Applicant he is neither a

Director nor a share holder. In M/s.Marathe Jewellers which is a partnership firm, the Applicant had a 20% share. The Applicant claims to have retired from the partnership on 30 November 2018. There is a third entity namely M/s.Marathe Investments.

8. The learned Additional Public Prosecutor has pointed out that in the Forensic Audit done by M/s.V A N S & Associates, Chartered Accountants, the Applicant, as per the first interim report was found to have been beneficiary of an amount of Rs.14,28,722/-. He pointed out that as per the second interim report of the auditors the Applicant is said to be beneficiary to the extent of amount of Rs.28,99,617/-.

9. The learned counsel for the Applicant submitted that the Applicant would forthwith deposit an amount of Rs.15 lakhs and the balance amount within two months, in order to show *bona fides*. It is submitted that the Applicant is also willing to deposit any further amount which the Auditor may find that the Applicant is beneficiary of, during the period from 2014 to 2018. It is submitted that the investigation is complete and the further detention of the Applicant behind bars is not necessary.

10. The learned Additional Public Prosecutor submitted that the total amount involved is in excess of Rs.5 Crores and the liability is still being determined by the Auditors in the Forensic

Audit and the amount of the liability may increase. It is submitted that the Applicant who is a partner of M/s.Marathe Jewellers cannot escape saying that he is liable to 20% as there is joint liability of all the partners.

11. I have considered the circumstances and the submissions made. *Prima facie* it appears that the Applicant was shown to be a partner to the extent of 20% in M/s.Marathe Jewelers from which the Applicant claims to have retired on 30 November 2018. Insofar as Pranav Marathe Jewellers is concerned the Applicant is an employee and is in receipt of salary to the extent of approximately Rs.10 Lakhs. The Investigating Officer has taken recourse to the services of the Auditor and the Forensic Audit is in progress and as per the second interim report, the Applicant is shown to be the beneficiary of an amount of Rs.28,99,617/-.

12. It is true that during the further Forensic Audit there is a possibility of the increase of the said amount. However, considering the fact that the investigation is complete and the charge-sheet is filed and at this stage the Applicant is shown to be beneficiary of Rs.28,99,617/- and further having regard to the fact that an amount of Rs.70 lakhs from the account of the mother of the Applicant is said to be freezed, I find that the Applicant can be admitted to bail, on conditions.

13. Hence the following order.

ORDER

(i) The Applicant-Pranav Milind Marathe be released on bail in Special Case No.851 of 2021 (Arising out of Crime No.64 of 2021) of Kothrud Police Station, Pune on the Applicant executing a P.R. Bond in the sum of Rs.50,000/- with one or two solvent sureties in the like amount.

(ii) This shall further be subject to the condition of the Applicant depositing Rs.15 Lakhs before this Court, within one week from today.

(iii) On deposit of the said amount the Registrar (Judicial) shall make over the same to the learned Special Court at Pune.

(iv) The Applicant shall file an undertaking to deposit a further amount of Rs.15 Lakhs, within six weeks before the Special Court. Such undertaking shall be filed before this Court within one week from today.

(v) The Applicant shall report to the Investigating Officer once in a month on first Monday between

11.00 a.m. to 1.00 p.m. and as and when required by the investigating officer and shall co-operate with the investigating agency in further investigation, if any.

(vi) Liberty to the prosecution to apply for modification, in the event of disclosure of any further material during the investigation/forensic audit.

(vii) The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.